

2-3-2015

# Rekow v. Weekes Clerk's Record v. 1 Dckt. 42265

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Supreme Court No. 42265  
Volume No.

IN THE  
SUPREME COURT  
OF THE  
STATE OF IDAHO

---

WILLIAM REKOW  
Plaintiff/Appellant

VS

RONALD WEEKES  
Defendant/Respondent

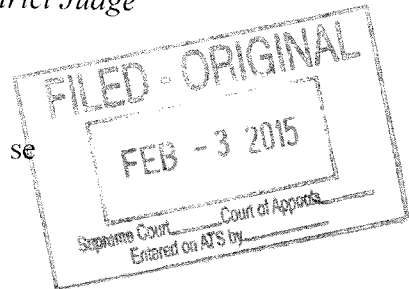
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*Appealed from the District Court of the Third Judicial  
District of the State of Idaho, in and for the County of Gem,*

*Honorable Susan W Wiebe, District Judge*

Appellant appearing Pro se

Jill Holinka  
Attorney for Respondent



---

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

SHELLY TILTON, Clerk  
Deputy

42265

RECEIVED  
DISTRICT COURT  
OF DISTRICT OF COLUMBIA  
JUN 15 1963

Defendant/Respondent.

Jill Holinka  
MOORE SMITH BUXTON & TURCKE, CHTD  
950 W. Bannock St. Ste 520  
Boise, ID 83702

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Verified Complaint to Demand  
Landlord Cure Defects; Award  
Loss of Value; Award Actual  
Damages; and Return of  
Personal Property; Summons  
Filed October 10, 2012

..... 6-27

William D. Rekow  
9449 Brill Road  
Letha, Idaho 83636

(208) 369-3048

Plaintiff, In Pro Per

FILED  
A.M. 4:40 P.M.

OCT 10 2012

SHELLY GANNON, CLERK  
*[Signature]* DEPUTY

MAGISTRATE COURT THIRD JUDICIAL DISTRICT

IN AND FOR COUNTY OF GEM, STATE OF IDAHO

WILLIAM D. REKOW,	)	CASE NO. <u>CV 4012-713</u>
	)	
Plaintiff,	)	VERIFIED COMPLAINT TO
	)	DEMAND LANDLORD
Vs.	)	CURE DEFECTS; AWARD
	)	LOSS OF VALUE; AWARD
RONALD L. WEEKES and	)	ACTUAL DAMAGES; AND
DOES I through X,	)	RETURN OF PERSONAL
Inclusive,	)	PROPERTY; SUMMONS
	)	
Defendants.	)	

COMES NOW Plaintiff, William D. Rekow, and upon his  
knowledge, information and belief, alleges and complains as  
follows:

1. Plaintiff resides at 9449 Brill Road, Letha, County of  
Gem, State of Idaho;



2. Said property is owned by Defendant RONALD L. WEEKES, who resides at 1996 Boise Avenue, Gem County, Letha, Idaho 83636;
3. This action is filed: (a) to compel Defendant to abide by Idaho Code Section 6-320 and commence repairs on the deficiencies/hazards/safety and health issues in or on the 9449 Brill Road property; and (b) to maintain the current status of Plaintiff's monthly rental, including but not limited to any rental increase, until such defects have been repaired;
4. On September 13, 2012, Plaintiff was given a letter from Defendant's counsel, Timothy L. Fleming, requesting a rent increase (See Exhibit A attached hereto);
5. On September 14, 2012, Plaintiff served a List of Defects on attorney Fleming, as he had designated himself as Defendant's agent to receive rental monies for the property (See Exhibit B attached hereto);
6. On September 21, 2012, Plaintiff served a Letter requesting Return of Personal Property belonging to Plaintiff and in possession of Defendant (See Exhibit C attached hereto);
7. On September 24, 2012, when no repairs had commenced and no return of Plaintiff's personal property transpired, a letter indicating Plaintiff's Intent to File Suit was

hand delivered to attorney Fleming, with a copy mailed to Defendant in Letha, Idaho 83636 (See Exhibit D attached hereto);

8. Plaintiff would ask the Court to take judicial notice of Gem County Sheriff Department criminal complaint numbered 02516, dated July 29, 2012, wherein Defendant committed physical battery upon Plaintiff, when Plaintiff requested repair of the defects at the rental property;

9. On July 30, 2012 Defendant served an unlawful and retaliatory "Notice of Eviction" which advised Plaintiff that Defendant was turning off the electrical power on August 4, 2012 (See Exhibit E attached hereto);

10. Plaintiff further asserts that he was not in arrears on rental monies, nor was he committing any violation of law or terms of tenancy that would occasion an eviction. He only asked Defendant, once again, to repair the (one of three) water source to the property, since there was never water available 24/7 for drinking, cooking, bathing, laundry and lawn care;

11. Plaintiff has had an estimate of repair costs performed by a licensed contractor (See Exhibit F attached hereto). The estimate is for the repair or replacement of the windows, doors, roof, bathroom tub and kitchen sink. The estimate does not include the porch, electrical or

water supply issues. The estimate is Thirteen Thousand Seven Hundred Seventy-Five Dollars (\$13,775.00);

12. In accordance with Idaho Code Section 6-317, Plaintiff requests treble damages in the amount of \$41,325.00.

As a second cause of action for breach of implied warranty of habitability, Plaintiff alleges:

13. Defendant misrepresented the state of the property as to habitability, as evidenced by the two hundred (200) photographs attached to Plaintiff's list of deficiencies;

14. The lack of reliable water service, lack of weatherproofing, leaking roof, missing windows, missing doors, lack of means of refuse disposal, mold issues and infestation by insects and pests mark this as a property whose defects are Defendant's specific responsibility to repair, as specified in Idaho Code Section 6-320; and,

15. Plaintiff claims loss of value in the amount of Four Hundred Thirty Dollars (\$430.00) per month, according to the dollar amounts assigned to each defect, as shown in Exhibit G attached hereto.

WHEREFORE, Plaintiff prays:

---

(i) That Defendant is ordered to have appropriately licensed and bonded tradesmen commence repair of the numerous defects in or on the property immediately;

(ii) That Defendant is ordered to pay to Plaintiff the loss of value in the amount of Twenty-Three Thousand Six Hundred and Fifty Dollars (\$23,650.00), said amount computed at the rate of Four Hundred Thirty Dollars (\$430.00) per month for fifty-five (55) months of tenancy under the defective conditions;

(iii) That Defendant is ordered to pay Plaintiff's costs of temporary relocation during the term of repairs, in a sum no less than Five Hundred Dollars (\$500.00) per month;


(iv) That Defendant is ordered to return Plaintiff's personal property in its original condition, immediately;

(v) That Defendant is ordered to pay treble damages to Plaintiff, for actual damages, in the amount of Forty-One Thousand Three Hundred Twenty-Five Dollars (\$41,325.00); and,

(vi) That Defendant pays Plaintiff's costs in bringing this action, including, but not limited to: filing fee(s), attorney's fee for consultation and paralegal fees for document preparation, photocopying, service of process, reproduction of photographs and postage; and,

(vii) For such other and further relief as the Court deems just and proper in the premises.

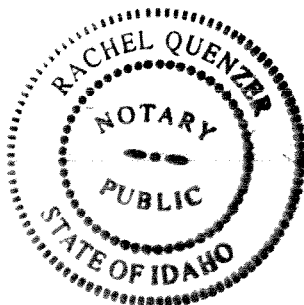
Dated: October 10, 2012

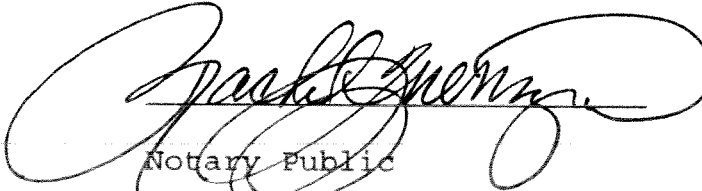
  
WILLIAM D. REKOW, Plaintiff  
In Propria Persona

**VERIFICATION**

Plaintiff, WILLIAM D. REKOW, Hereby declares that he has read the foregoing Complaint to Cure Defects and its attached Exhibits and, attests that the facts contained therein are true and correct to the best of his knowledge, information and belief.

Sworn to before me, Rachel Quenzer, residing in Emmett, I  
Notary Public, in and for the State of Idaho, on this 10th  
day of October, 2012, at 415 E. Main St in Emmett, Id  
In the County of Gem, Emmett, Idaho  
Notary for Gem County Idaho  
My Commission Expires: 11/17/2016



  
Notary Public



*from the desk of*  
**Timothy L. Fleming**

September 12, 2012

Mr. William Rekow  
9449 Brill Road  
Emmett, Idaho 83617

re: **NOTICE OF INCREASE OF RENT**  
**9449 Brill Road**

Dear Mr. Rekow:

Please be advised that I represent Ronnie and Angela Weeks. As you are aware, they are the owners of the residence that you are occupying. Where there is no written lease agreement, you are considered to be enjoying a month to month tenancy of the property.

In light of the fact that you were terminated from employment with the Weeks', and considering that an employment benefit to you was your occupancy of this property at a significantly reduced rental amount and this benefit is no longer available to you;

The purpose of this letter is to provide you with notice, pursuant to Idaho Code §55-307, that the rent for the residence and property that you are occupying will increase to **\$700.00** per month, commencing **October 15<sup>th</sup>, 2012**. Your first payment is due no later than **4:00 PM** on **October 15<sup>th</sup>** and each and every month thereafter. Failure to pay on the 15<sup>th</sup> day of each month by 4:00 PM will result in immediate steps to have you removed from the property for non-payment.

Also, pursuant to the agreement in place currently, you owe **\$200** for the month of September and **\$100** for the prorated amount for the first part of October (October 1-14<sup>th</sup>). These amounts must also be paid no later than **October 15<sup>th</sup> at 4:00 PM.**

Fleming Law Offices, PLLC  
P.O. Box 814  
1312 S. Washington, Suite F  
Emmett, Idaho 83617

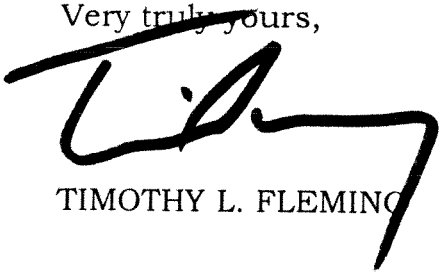
Office: (208)365-9400  
Fax: (208)365-4541  
timfleminglaw@gmail.com

EXHIBIT A 1 OF 2

In summary, total payment of **\$1000.00** shall be made no later than **October 15<sup>th</sup>, 2012 at 4:00 PM.** Payment shall be made at Fleming Law Offices, PLLC, located at 1312 S. Washington Avenue, Suite F, Alliance Title Building, Emmett, Idaho, 83617.

If you have any questions, please do not hesitate to contact me directly.

Very truly yours,



TIMOTHY L. FLEMING

TLF/tcb

cc: client

Mr. Timothy Fleming,

Atty for Ron Weekes

Re: Defects at 9449 Brill Rd., Letha, ID 83636

The defects listed below have been verbally reported to Mr. Ron Weekes (or Mr. Wayne Weekes) over the course of Mr. Wm. D. Rekow's residency of the abovementioned property. In accordance with Idaho Code, Mr. Rekow submits this written list.

At this time, Mr. Rekow disputes your letter's claim that "there is no written agreement" and counters that the date for monies to change hands for this property has been agreed to as the 1<sup>st</sup>, not the 15<sup>th</sup>. In light of your positional discrepancy, Mr. Rekow cannot make a firm response to your monetary request at this time.

DEFECTS NOTED AND/OR PREVIOUSLY BROUGHT TO OWNERS' ATTENTION

No constant water supply.

Leak in roof, central section, west side

Entire north-facing roof surface degraded

No screen over attic access, allows, insects, pests, etc. into home

Both upper and lower windows to right of entry are too unsound to be deglazed and require replacement

South facing window in entry room has a disintegrated frame and has fallen out

West side bedroom window has leaks and drafts due to broken seals

West side den window and small bedroom window on north side have no screens

Large bedroom, large window, outside sill entirely rotted away, causing hole in wall

Wood pellet burning stove has never been operational

East side of house has plywood screwed onto door frame in lieu of actual door

North facing section of house roof has boards rotted away, allowing access by pests  
And nesting birds

Several holes in bathroom baseboards allow mice into house

Small east side room, off of living room, roof leak water runs down interior wall



Exterior siding in multiple locations falling away

Non-operational porch light fixture

Wiring and switches for living room light and ceiling fan non-functional- possible fire Hazard

Possible mold spore infestation, due to ignored structural and roof leaks

Multiple live, uncapped wires and non-functional receptacles in entry room and On porch

Wiring for exhaust fan and auxiliary lights in bathroom do not function

The fulcrum in the kitchen sink failed and leaks everywhere

Valve seals in bathtub are failed, tub runs constantly

Large holes in kitchen ceiling, due to roof leak, allow debris to fall out onto kitchen Floor

Tool shed roof leaks and cracked rafters are leading to roof failure

Septic system fails when irrigation causing yard to flood, drain field does not drain Toilet becomes unusable

Air leaks around many window frames in den on west side of house

Large hole in den wall (approx. 2 feet square) has been "repaired" with a piece Of 18 gauge sheet metal placed in front of hole – does not stop prevailing winds Entering house

#### OUTSIDE THE STRUCTURE

Multiple "volunteer" locust shoots are impinging on power lines

Canadian Thistle ( a known noxious weed) is massively Infesting lawn

Fence at the entry driveway has missing top bar on chain link fence

Constant flooding around pump house (mosquito breeding habitat)

Lag screw securing main power line to pole to supply house has come out causing  
Line to sag within 6 feet of the ground, making it hazardous to drive any large piece  
Of equipment beneath it

Main power pole at the side of the equipment shed is near falling over

Leak in water supply lines to house causes pump to start and run excessively

Exterior perimeter soffit of house shows results of leakage, rot and cracking

Paint peeled away from soffit, showing water damage from leaks inside soffit

Visible roof truss shows impacted, buckled and failing due to damage from an  
Unknown falling object

The foregoing list of defects has been hand delivered to the attorney for Ronald Weekes,  
One Timothy Fleming, Esq. at his offices on Washington Avenue, Emmett, Gem County,  
Idaho, on Friday, September 14<sup>th</sup>, 2012.

Mauri McNaughton,  
Legal Secretary



Dictated but not signed by William D. Rekow 9/14/12

*copy*

September 21, 2012

Timothy :/ Fleming, Esq.  
1312 S. Washington Ave., Suite F  
Emmett, ID 83617

Re: Retrieval of personal property in possession of Weekes, et al.

Dear Mr. Fleming:

Since both Ron and Angela Weekes will not respond to my telephone request to return my personal property, I have no choice but to make this written request to you.

The property involved is:

A large chassis grease gun assembly and its wheel carriage (last known to be in their shop in downtown Letha);

A rock drill (painted red);

A receiver for a trailer hitch sans ball, as it is designed for use with drawn farm equipment; and,

An adaptor fitting assembly for an air compressor.

If you will advise me, telephonically, where and when I may take possession of these items, it would be greatly appreciated.

Thank you for your courtesy and cooperation in this regard.

Very truly yours,

*W.D. REKOW*

William D. Rekow

WDR/mmn

EXHIBIT C 10F2

Declaration of Service

I, Mauri McNaughton do hereby declare: I am a resident of Emmett, County of Gem, State of Idaho. I am over the age of twenty-one (21). I am not a party to the action.

On Friday, September 21st, 2012 I hand-delivered a letter entitled Return of Personal Property of William D. Rekow to Timothy L. Fleming, Attorney, at 1312 South Washington Avenue, Suite F, Emmett, ID 83617.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of September, 2012 at Emmett, Gem County, Idaho.

/s/ M Mc N

Mauri McNaughton

mmn

September 24, 2012

Timothy L. Fleming, Esq.  
1312 South Washington Avenue, Suite F  
Emmett, Idaho 83617

Re: Notice of Intent to File

Dear Mr. Fleming:

Due to the lack of action on the part of your client, Ronald Weekes, owner of the 9449 Brill Rd., property, to take action to remedy the defects, I will be availing myself of any and all remedies granted me under the Idaho Code.

Very truly yours,

*15/ Wm. D. REKOW*

William D. Rekow

WDR/mmn

Cc: Weekes @ POB 37, 83636

EXHIBIT D 1 OF 2

Declaration of Service

I, Mauri McNaughton do hereby declare: I am a resident of Emmett, County of Gem, State of Idaho. I am over the age of twenty-one (21). I am not a party to the action.

On Monday, September 24th, 2012 I hand-delivered a letter entitled Notice of Intent to File to Timothy L. Fleming, Attorney, at 1312 South Washington Avenue, Suite F, Emmett, ID 83617.

A copy of said letter was placed in the United State mail, addressed to Ron and Angela Weekes, Post Office Box 37, Letha, Idaho 83636, with postage fully paid, at the Emmett Post Office, located at Main St. and Johns Ave. in Emmett.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24th day of September, 2012 at Emmett, Gem County, Idaho.

*MSMcN*

Mauri McNaughton

mmn

# NOTICE OF EVICTION

## LANDLORD:

Name: Ronnie Weekes

Address: 1996 Boise Ave.

City State Zip: Letha, Id 83636

Phone: 208-365-9033

## TENANT:

Name: William Rekow

Address: 9449 Brill Rd

City State Zip: Emmett, Id 83617

Phone: unknown

**The eviction will take place on August 31, 2012**

**Move out of the property and return control of the property to the landlord.**

## Warning:

**Personal property that you leave in the leased premises is considered abandoned. The tenant does not have any right to re-enter the property or re-claim any property after the eviction begins.**

**Any abandoned property may be disposed of by the landlord at any time after the eviction begins. The landlord is strictly prohibited from putting the abandoned property in the street, the sidewalk, alleys, or any public property.**

**As of Friday August 3<sup>rd</sup> 2012 power will be shut off on 9449 Brill Rd. Were as said lessee no longer has employment with us it can no longer be held out of his paycheck, and he will be responsible for reinstating power in his own name. Any occupants now occupying said premises other than William Rekow are to vacate immediately as they do not have approval to be tenants on the premises. As of August 1st \$200 is expected for rent if property is not evacuated by said date, and each month thereafter.**

**AFFIDAVIT OF POSTING:** I hereby certify that I posted a complete copy of the above notice on the premises described above on 7/30/2012

Printed Name: Ronnie Weeks Signature: Ronnie Weeks Date: 7-30-2012

Agreed William D. Parker 07/31/2012



INVOICE NO.

506154

SOLD TO: Buck R-Kow  
 ADDRESS: Brill Rd  
 CITY, STATE, ZIP: Emmett Id 83617

SHIP TO:  
 ADDRESS:  
 CITY, STATE, ZIP:

CUSTOMER'S ORDER: 369-3048 SOLD BY: 412-6530 TERMS: Total determined by Acceptance F.O.B. Price Subject to change DATE:

INVOICE  
2-007 REJECOM 7/7215

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	Bid for following:		
1	2 Pump House - tear down & Rebuild	950 <sup>00</sup>	
1	3 Window by Front Door - Rebuild	350 <sup>00</sup>	
Each	4 Exterior Doors - Replace jam + door + Trim	675 <sup>00</sup>	
Each	5 Interior Doors - Replace jam + door + Trim	50 <sup>00</sup>	
1	6 Screen Door - Special order	40 <sup>00</sup>	
2	7 Tub - Replace Tile over existing holes	175 <sup>00</sup>	
2 -	8 Kitchen ceiling + Stone Hole in wall	1100 <sup>00</sup>	
1	9 Roof not Parch, Parch add	6000 <sup>00</sup>	
1	10 Foundation West side, condition only - known by Excavating P	2500 <sup>00</sup>	

EXHIBIT F 10x2

To Buck Rekow,

These prices reflect known factors, so if I find more due to unforeseen damage from conditions of House I will have to adjust prices to complete repairs, as when remodeling or rebuilding there are at times damage that cannot be seen until dismantle. So prices are subject to increase, unless agreement before hand.

Frank J. Ford  
Frank J. Ford

Oct - 8 - 12

LOSS OF VALUE ASSIGNED TO  
EACH SPECIFIC DEFECT IN  
PROPERTY LOCATED AT  
9449 Brill Road, Letha, ID

No Constant Water Supply- <i>no PHOTO</i>	\$ 25.00 mo.
West Side Roof Leak See Photo # <i>01010150</i>	\$ 15.00
North-facing roof shingles disintegrating See Photo # <i>01010074</i>	\$ 10.00
No Screen over attic access See Photo # <i>01010019</i>	\$ 10.00
2 unsound entry room windows See Photo # <i>01010105 &amp; 01010053</i>	\$ 10.00
1 missing entry room window See Photo # <i>01010052</i>	\$ 10.00
Bedroom window broken seals, leaks, drafts See Photo # <i>01010025</i>	\$ 10.00
2 windows missing screens See Photo # <i>01010191 &amp; 01010194</i>	\$ 8.00
Large bedroom window, rotted sill, hole in Wall See Photo # <i>01010025</i>	\$ 12.00
Non-functioning pellet stove and failed Propane wall furnace See Photo # <i>01010126 &amp; 01010091</i>	\$ 25.00
Grease-stained plywood in lieu of proper Exterior door <i>01010146 &amp;</i> See Photo # <i>01010118 - INTERIOR</i>	\$ 10.00
Holes in bathroom baseboards allowing mice Into house See Photo # <i>01010134</i>	\$ 15.00
Water running down interior walls from Roof leak See Photo # <i>01010115</i>	\$ 15.00

Loss of Value - Page 2

Exterior siding falling/rotting away See Photo # 01010056	\$ 5.00
Non-operational porch light See Photo # 01010017	\$ 5.00
Living room light and ceiling fan wiring And switches non-functional See Photo # 01010083-84 & 85	\$ 5.00
Mold caused by ignored leaks See Photo # NO PHOTO	\$ 20.00
Live uncapped wires and dead outlets See Photo # 01010086	\$ 10.00
Bathroom exhaust fan and auxiliary lights Non-functional See Photo # NO PHOTO	\$ 10.00
Failed fulcrum in kitchen sink leaks into Cabinet and floor See Photo # NO PHOTO	\$ 10.00
Failed valve seals in bathtub, water runs See Photo # 01010138	\$ 15.00
Large hole in kitchen ceiling from roof Leak, water and debris falling to floor See Photo # 01010098	\$ 35.00
Flooding in yard causes septic system to Fail, makes toilet unusable See Photo # NO PHOTO	\$ 50.00
Den windows have gaps and air leaks See Photo # 01010029	\$ 15.00
Large hole in den wall allows prevailing Winds to blow into house See Photo # 01010122	\$ 15.00

Loss of Value - Page 3

Constant pump house flooding breeds Mosquitoes	\$ 10.00
See Photo # 01010161 & 01010186	
Power pole line sags too close to ground, Hazard	\$ 10.00
See Photo # 01010148	
Power pole near shed ready to fall down	\$ 10.00
See Photo # 01010169	
<b>TOTAL MONTHLY LOSS OF VALUE</b>	<b>\$430.00</b>



but, to the contrary, asserts that by reason of said denials, and by reason of relevant statutory and judicial authority, the burden of proving the facts relevant to many, if not all, of the defenses and affirmative defenses are upon Plaintiff in this action.

### FIRST DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

### SECOND DEFENSE

### ANSWER

1. Defendant denies the allegations contained in paragraph 1 of the Complaint. Defendant affirmatively alleges that Plaintiff was duly served with a notice of eviction to vacate the property on or before August 31, 2012, which Plaintiff acknowledged receiving on or about July 31, 2012. Defendant further affirmatively alleges that Plaintiff failed to vacate the property on August 31, 2012, and was thereafter duly served with a notice of increase in rent and request to pay rent in full on or before October 15, 2012, which rent has not been paid as required.
2. Defendant admits the allegations contained in paragraph 2 of the Complaint, except that Defendant's name is Ronnie Weekes.
3. The allegations in paragraph 3 of the Complaint contain introductory statements and/or legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendant denies the allegations.
4. In answer to paragraph 4 of the Complaint, Defendant admits only that his counsel, Timothy Fleming, sent a letter dated September 12, 2012 to Plaintiff, which letter speaks for itself. Defendant is without sufficient information to admit or deny the remaining allegations of paragraph 4, and therefore denies the same.

ANSWER - 2

5. In answer to paragraph 5 of the Complaint, Defendant admits only that his attorney received a letter dated September 14, 2012, which letter speaks for itself. Defendant is without sufficient information to admit or deny the remaining allegations of paragraph 5, and therefore denies the same.

6. In answer to paragraph 6 of the Complaint, Defendant admits only that his attorney received a letter dated September 21, 2012, which letter speaks for itself. Defendant is without sufficient information to admit or deny the remaining allegations of paragraph 6, and therefore denies the same.

7. In answer to paragraph 7 of the Complaint, Defendant admits only that his attorney received a letter dated September 24, 2012, which letter speaks for itself. Defendant denies the remaining allegations of paragraph 7.

8. The allegations in paragraph 8 of the Complaint include a request for the Court to take judicial notice, which allegation does not require a response and which request should be stricken from the Complaint. To the extent a response is required to the allegations in paragraph 8, Defendant denies the allegations.

9. In answer to paragraph 9 of the Complaint, Defendant admits only that he served a notice of eviction on Plaintiff, which Plaintiff signed and agreed to on July 31, 2012. The notice of eviction speaks for itself. Defendant denies the remaining allegations of paragraph 9.

10. Defendant denies the allegations in paragraph 10 of the Complaint.

11. Defendant is without sufficient information to admit or deny the allegations in paragraph 11 of the Complaint and therefore denies the same. The estimate attached as Exhibit F to the Complaint speaks for itself.



12. The allegations in paragraph 12 of the Complaint include legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendant denies the allegations.

13. Defendant denies the allegations in paragraph 13 of the Complaint.

14. The allegations in paragraph 14 of the Complaint include legal conclusions to which no responsive pleading is required. To the extent a response is required, Defendant denies the allegations.

15. Defendant denies the allegations in paragraph 15 of the Complaint.

#### **PRAYER FOR RELIEF**

The remainder of Plaintiff's Complaint consists of Plaintiff's prayer for relief under the various claims for relief, to which no responsive pleading is required. To the extent a response is required, Defendant denies that Plaintiff is entitled to the relief requested, or to any relief whatsoever.

#### **AFFIRMATIVE DEFENSES**

##### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

##### **SECOND AFFIRMATIVE DEFENSE**

All or some of Plaintiff's claims may be barred, in whole or in part, by Plaintiff's unclean hands and/or by the doctrines of estoppel and waiver, by virtue of the following: Plaintiff never complained about the condition of the leased premises prior to his notice of eviction or to the notice of increase in rent; Plaintiff's written notice of defects to Defendant's attorney was made just two (2) days after he was served with notice of increase in rent and notice to pay rent.

Plaintiff has failed to pay rent for the months of September and October, and continue to reside in the leased premises in violation of his oral rental agreement with Defendant.

**THIRD AFFIRMATIVE DEFENSE**

The damages of Plaintiff, if any, are the result of independent, intervening and/or superseding causes, including, without limitation, actual acts or omissions of Plaintiff or of third parties over which Defendant has no control.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by the doctrine of equitable estoppel by virtue of Plaintiff's breach of his oral rental agreement with Defendant, which consists of Plaintiff's willful waste and destruction of the leased premises and failure to pay rent as and when required; thus relieving Defendant of his obligations under the rental agreement, if any.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to take reasonable steps to mitigate his alleged damages, if any.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff breached the oral rental agreement which forms the basis of his cause of action by failing to pay rent as and when due, by committing waste on the leased premises, and by allowing additional tenants to live at the leased premises without permission of the Defendant.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's demand for equitable relief (specific performance) is improper because Plaintiff has an adequate remedy at law.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by the doctrine of laches and Plaintiff's unreasonable delay in bringing this action; such laches and unreasonable delay were without good cause and substantially prejudiced Defendant.

**NINTH AFFIRMATIVE DEFENSE**

Any amount due Plaintiff, if any, is subject to an offset for (1) rent due for the months of September and October 2012, and for any months thereafter during which Plaintiff continues to reside on the leased premises without paying rent and/or electricity costs as required by the oral rental agreement, and (2) damages to the leased premises caused by Plaintiff.

**TENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff's Complaint alleges a cause of action for conversion or wrongful detention of personal property, there is no liability in that said personal property is no longer in the possession or control, and was not in the possession or control, of Defendant at the time of any demand for return of such property, if any such demand was made.

**RESERVATION TO AMEND**

Defendant reserves the right, after further discovery, to amend this Answer or to file a counterclaim, cross claim, or to add or delete affirmative defenses supported by the facts, and a failure to include all such defenses in this Answer shall not be deemed a waiver of any right to further amend this Answer.

**ATTORNEYS' FEES**

Defendant has been required to retain the law firm of MOORE SMITH BUXTON & TURCKE, CHTD, in defense of this action. Pursuant to Idaho Code §§6-324, 12-120, 12-121, Rule 54 of the

Idaho Rules of Civil Procedure, and any other applicable provision of Idaho law, Defendant is entitled to an award of his reasonable attorneys' fees and costs incurred herein.

WHEREFORE, Defendant prays for relief as follows:

1. That the Plaintiff's Complaint as to all counts and all prayers for relief be dismissed with prejudice and Plaintiff take nothing thereby;
2. That Defendant be awarded reasonable attorneys' fees and costs incurred herein;  
and
3. For such other and further relief as the Court deems just and equitable.

DATED this 2<sup>d</sup> day of November, 2012.

MOORE SMITH BUXTON & TURCKE, CHTD.

By: 

Susan E. Buxton

Jill S. Holinka

Attorneys for Defendant

VERIFICATION

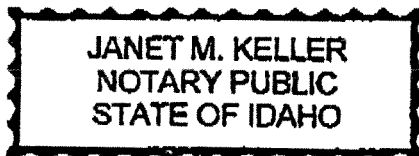
STATE OF IDAHO )  
: ss.  
COUNTY OF GEM )

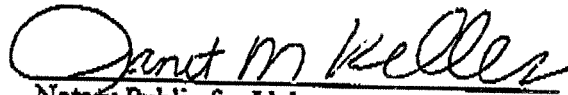
RONNIE WEEKES, being first duly sworn upon oath, deposes and states:

That he is the Defendant in the above entitled action; that he has read the within and foregoing Verified Answer, knows the contents thereof, and that the statements therein contained are true to the best of his knowledge and belief.

  
RONNIE WEEKES

SUBSCRIBED AND SWORN to before me this 2 day of November, 2012.



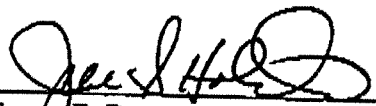
  
Notary Public for Idaho  
Residing at Boise, Idaho  
Commission Expires: 12/18/2012

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **VERIFIED ANSWER** this 2<sup>d</sup> day of November, 2012 served upon the following individuals and in the corresponding manner:

William D. Rckow  
9449 Brill Road  
Emmett, Idaho 83617

☒ via U.S. Mail  
☐ via Facsimile  
☐ via Email

  
\_\_\_\_\_  
Susan E. Buxton  
Jill S. Holinka

Susan E. Buxton, ISB #4041  
Jill S. Holinka, ISB #6563  
MOORE SMITH BUXTON & TURCKE, CHTD.  
950 W. Bannock Street, Suite 520  
Boise, ID 83702  
Telephone No.: (208) 331-1800  
Facsimile No.: (208) 331-1202  
Email: [seb@msbtlaw.com](mailto:seb@msbtlaw.com)  
[jsh@msbtlaw.com](mailto:jsh@msbtlaw.com)

**FILED**  
MAR 28 2014  
SHELLY TILTON, CLERK  
DEPUTY

*Attorneys for Defendant*

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM**

WILLIAM D. REKOW,	)	
	)	<b>Case No. CV 2012-713</b>
Plaintiff,	)	
	)	<b>[PROPOSED] ORDER GRANTING IN</b>
v.	)	<b>PART AND DENYING IN PART</b>
	)	<b>DEFENDANT'S MOTION TO</b>
RONALD L. WEEKES and DOES I through	)	<b>DISMISS/MOTION FOR SUMMARY</b>
V, Inclusive,	)	<b>JUDGMENT</b>
	)	
Defendants.	)	
	)	

On March 18, 2014, the above-entitled matter came before the Court on the Defendant's alternative Motion to Dismiss or for Summary Judgment, the Honorable Susan Wiebe, presiding. The Plaintiff was present and not represented by counsel. The Defendant was present and represented by Jill S. Holinka of the law firm Moore Smith Buxton & Turcke, Chtd.

After hearing argument and considering all the pleadings, motions, memoranda, affidavits, and other documents on file herein, this Court, being fully advised in the matter, and good cause appearing therefore:

**[PROPOSED] ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S  
MOTION TO DISMISS/MOTION FOR SUMMARY JUDGMENT - 1**

1. The Court hereby ORDERS, ADJUDGES AND DECREES that Defendant's Motion for Summary Judgment as to Plaintiff's First Cause of Action for Breach of the Statutory Warranty of Habitability (Idaho Code §6-320) is GRANTED IN PART and DENIED IN PART.

a. The Court finds that there is no genuine issue of material fact that as to Idaho Code §§6-320(a)(1), (3) and (5), Plaintiff's demand for specific performance is moot and Defendant's Motion for Summary Judgment on that issue is hereby GRANTED and such claims are DISMISSED.

b. The Court finds that there is no genuine issue of material fact that Plaintiff's claim for damages under Idaho Code §6-320 did not arise until September 14, 2012, the date written notice of alleged defects was given to Defendant pursuant to Idaho Code §6-320(d), and Defendant's Motion for Summary Judgment requesting dismissal of Plaintiff's claim for damages preceding that date is hereby GRANTED and such claim is DISMISSED.

c. The Court finds that there is a disputed issue of fact as to Plaintiff's alleged damages for violation of Idaho Code §6-320 between September 14, 2012 and the date Plaintiff was evicted pursuant to the Unlawful Detainer proceeding, and Defendant's Motion for Summary Judgment on that issue is hereby DENIED.

d. The Court finds that there is no genuine issue of material fact that Plaintiff rented only the homestead portion of the property and that such property is less than five (5) acres and therefore Defendant's Motion for Summary Judgment requesting dismissal of Plaintiff's First Cause of Action pursuant to Idaho Code §6-320(e) is DENIED.

2. The Court further ORDERS, ADJUDGES AND DECREES that Defendant's Motion for Summary Judgment as to Plaintiff's Second Cause of Action for breach of the

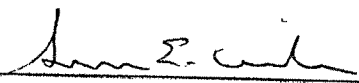
[PROPOSED] ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S  
MOTION TO DISMISS/MOTION FOR SUMMARY JUDGMENT - 2



Implied Warranty of Habitability is hereby GRANTED because Idaho does not recognize a claim for breach of an implied warranty of habitability, and such claim is hereby DISMISSED.

3. The Court further ORDERS, ADJUDGES AND DECREES, that Defendant's Motion for Summary Judgment as to a claim for conversion or claim and delivery is hereby GRANTED because Plaintiff's Complaint does not properly establish such claims and even if it did, such claims are moot because there is no genuine issue of material fact that the four (4) items described in the exhibits to the Complaint have been returned to Plaintiff. Such claim is hereby DISMISSED.

IT IS SO ORDERED this 28 day of March, 2014.

  
\_\_\_\_\_  
SUSAN E. WIEBE  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28 day of March, 2014, I caused to be served a true and correct copy of the foregoing **ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION TO DISMISS/MOTION FOR SUMMARY JUDGMENT** upon the following individuals and in the corresponding manner:

William D. Rekow  
c/o Mauri McNaughton  
1600 E. Main St., #5  
Emmett, Idaho 83617

☒ via U.S. Mail  
☐ via Facsimile  
☐ via Email: *heviarti@gmail.com*

Susan E. Buxton  
Jill S. Holinka  
950 W. Bannock St., Suite, 520  
Boise, ID 83702

☒ via U.S. Mail  
☐ via Facsimile (208) 331-1202  
☐ via Email: *seb@msbtlaw.com*  
*jsh@msbtlaw.com*

CLERK OF THE COURT

By: 

Deputy Clerk

Susan E. Buxton, ISB #4041  
Jill S. Holinka, ISB #6563  
MOORE SMITH BUXTON & TURCKE, CHTD.  
950 W. Bannock Street, Suite 520  
Boise, ID 83702  
Telephone No.: (208) 331-1800  
Facsimile No.: (208) 331-1202  
Email: [seb@msbtlaw.com](mailto:seb@msbtlaw.com)  
[jsh@msbtlaw.com](mailto:jsh@msbtlaw.com)

**F I L E D**  
A.M. *2:05* P.M.

JUN 03 2014

SHELLY TILTON, CLERK  
*[Signature]* DEPUTY

*Attorneys for Defendant*

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM**

WILLIAM D. REKOW,	)	
	)	<b>Case No. CV 2012-713</b>
Plaintiff,	)	
	)	<b>ORDER GRANTING DEFENDANT'S</b>
v.	)	<b>MOTION FOR DIRECTED VERDICT<sup>1</sup></b>
	)	
RONALD L. WEEKES and DOES I through	)	
V, Inclusive,	)	
	)	
Defendants.	)	
	)	

On May 23, 2014, the above-entitled matter came before the Court for a court trial, the Honorable Susan E. Wiebe, presiding. The Plaintiff was present and not represented by counsel. The Defendant was present and represented by Jill S. Holinka of the law firm Moore Smith Buxton & Turcke, Chtd.

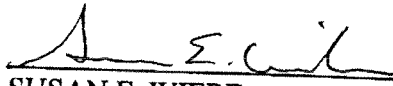
At the close of Plaintiff's case, Defendant moved for a directed verdict pursuant to Rule 50(a) of the Idaho Rules of Civil Procedure on the grounds that Plaintiff had failed to establish or quantify damages resulting from a violation of Idaho Code §6-320(a). After considering the

<sup>1</sup> The Court notes that, in a court trial, a motion brought by the Defendant after completion of the Plaintiff's evidence is properly one for involuntary dismissal under Rule 41(b) of the Idaho Rules of Civil Procedure on the grounds that "upon the facts and the law the Plaintiff has shown no right to relief." I.R.C.P. 41(b). *Durrant v. Quality First Marketing, Inc.*, 127 Idaho 558, 559, 903 P.2d 147, 148 (Ct. App. 1995). The Court therefore treats Defendant's motion as one under I.R.C.P. 41(b).

motion, the evidence and testimony presented by Plaintiff, the Court found that (1) Plaintiff had failed to establish written notice of defects to Defendant had been served as required by Idaho Code §6-320(d), which is a prerequisite to Plaintiff's claim, and (2) Plaintiff failed to quantify or otherwise establish his damages resulting from a violation of Idaho Code §6-320(a).

Therefore, the Court being fully advised in the matter hereby ORDERS, ADJUDGES AND DECREES that Defendant's motion for directed verdict pursuant to Rule 50(a) of the Idaho Rules of Civil Procedure is hereby GRANTED and Plaintiff's Complaint is DISMISSED WITH PREJUDICE and Plaintiff shall take nothing thereby.

IT IS SO ORDERED this 3<sup>rd</sup> day of June, 2014.

  
\_\_\_\_\_  
SUSAN E. WIEBE  
District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of June, 2014, I caused to be served a true and correct copy of the foregoing **ORDER GRANTING DEFENDANT'S MOTION FOR DIRECTED VERDICT** upon the following individuals and in the corresponding manner:

William D. Rekow  
c/o Mauri McNaughton  
1600 E. Main St., #5  
Emmett, Idaho 83617

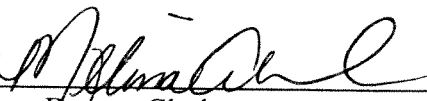
☒ via U.S. Mail  
☐ via Facsimile  
☐ via Email: *heviarti@gmail.com*

Susan E. Buxton  
Jill S. Holinka  
950 W. Bannock St., Suite, 520  
Boise, ID 83702

☒ via U.S. Mail  
☐ via Facsimile (208) 331-1202  
☐ via Email: *seb@msbtlaw.com*  
*jsh@msbtlaw.com*

**Shelly Tilton**

CLERK OF THE COURT

By:   
Deputy Clerk

WILLIAM D. REKOW, Plaintiff/Appellant  
Pro Se  
c/o McNaughton  
1600 East Main St., #5  
Emmett, ID 83617

FILED  
A.M. 105 P.M.

JUN 23 2014

SHELLY TILTON CLERK  
DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO,  
IN AND FOR THE COUNTY OF GEM

WILLIAM D. REKOW, Pro Se,  
Plaintiff/Appellant,  
vs.

RONNIE L. WEEKES and DOES I through  
V, Inclusive,  
Defendant/Respondent

) Case No.: No. CV 2012-713  
)  
) PLAINTIFF'S NOTICE OF APPEAL;  
) MEMORANDUM OF POINTS AND AUTHORITIES  
) IN SUPPORT  
)  
)  
)  
)  
)  
)  
)

PLEASE TAKE NOTICE that Plaintiff/Appellant WILLIAM D. REKOW, Pro Se, pursuant to I.A.R. 14 hereby requests transcript and document copies from the Clerk of the Court in relation to Plaintiff's appeal of that portion of the District Court's Order for Summary Judgment filed March 28, 2014 in the above-entitled matter, to wit: paragraph 1 subsection b., wherein the Honorable Susan E. Wiebe, District Judge presiding at the March 18, 2014 hearing, which denied Plaintiff damages under Idaho Code Section 6-320 prior to the September 14, 2012 date of his defects letter to Defendant. Plaintiff submits that the District Court committed judicial error in interpreting Idaho Code Section 6-320(d) which requires a tenant to give written notice in order to gain standing to file an action for specific performance or damages, giving a landlord three (3) days to begin repairs. Nowhere does the

applicable section indicate that a tenant's damages are tied to the date of achievement of standing to file an action. Nor does Idaho Code Section 6-320(d) demand that written request by a tenant to a landlord for repairs is mandated before a landlord makes a tenant's verbally requested repair.

Plaintiff filed his Motion to Reconsider with the District Court which was denied on April 1, 2014, alleging (incorrectly) that Plaintiff had been removed from the rental due to non-payment of rent when, in fact, the Honorable Tyler Smith had stated in the unlawful detainer hearing held January 13, 2013 (after reviewing some thirty [30] photos of the rental premises taken and submitted by Plaintiff) that the premises were "uninhabitable", "no person should be living here"; and, for that reason tenant was being "removed" and there was no rental amount awarded to landlord. The District Court herein judicially noticed the unlawful detainer proceedings [Gem County Case No. CV-2013-3] at Defendant's behest.

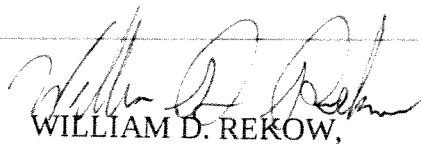
Lastly, Plaintiff submits that he first complained verbally to Defendant that there was no reliable water service to the rental house (located at 9449 Brill Road, Emmett, Idaho) when his rental of the house began in June 2008. Defendant finally responded to Plaintiff's ongoing verbal requests for water by having repairs begun to the water delivery pump assembly in November 2008 (as evidenced by the Valley Pump repair invoice #101801 dated 11/25/08) these repairs were not successful, nor was the follow-up service call by Valley Pump invoice #102034 dated 1/7/2009 leaving Plaintiff without a reliable water source to the rental house from June 2008 through January 2013 at which

time Plaintiff began to vacate the premises. Plaintiff seeks the amount of Two Hundred Dollars (\$200.00) per month, for each month of the period June 1, 2008 through February 1, 2013, which comprises the time period of no reliable water source to the rental house.

The Idaho Supreme Court, in its ruling in Silver Creek Computers, Inc. v. Petra, Inc., 42 P.3d 672 (Idaho 2002) clearly stated that the District Court erred in instructing the jury that the 3-day written notice was required within three (3) days of the occurrence upon which the lawsuit was based. The Court stated: "The statute does not require that the notice be given within three days of the failure or breach. Rather, it requires that the written notice be given at least three days before the tenant files a lawsuit under Idaho Code Section 6-320."

As the Idaho Supreme Court stated in Worden v. Ordway, 105 Idaho 719, 722, 672 P.2d 1049, 1052 (1983), "The procedural requirement under I.C. Section 6-320 that we are concerned with here is the requirement that the tenant give the landlord three days' written notice requiring him to cure the defects before suit may be filed. The purpose of the requirement of 'three (3) days written notice' is to notify the landlord of a claimed failure or breach and to give him three days within which to remedy it."

DATED June 23, 2014

  
WILLIAM D. REKOW,

Plaintiff/Appellant Pro se



## MEMORANDUM OF POINTS AND AUTHORITIES

First and foremost, Plaintiff/Appellant herein states that it is a common practice in the property rental community for a landlord to respond to a tenant's verbal request for a repair to rental property. It would be beyond the pale to argue that every dripping faucet, ripped screen, or cracked window called for a written request from tenant to landlord before repair could be effected.

Secondly, a reading of Idaho Code Section 6-320(d) only mandates that a tenant give written notice of a defect and grant landlord three (3) days within which to repair: "in order to gain standing to file an action for specific performance or damages" – **nowhere does the section quoted state or imply that a tenant has no damages without "standing"**. Since Defendant/Respondent/Landlord herein had eventually responded to Plaintiff/Appellant/Tenant's verbal request for repairs to the water delivery system to the rental house; but, **did not rectify the problem**, Plaintiff's damages began with the initial failure of the water delivery system and continued throughout Plaintiff's tenancy period of June 2008 through January 2013.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a full and complete conformed copy of PLAINTIFF'S NOTICE OF APPEAL was served upon the persons or entities listed below, by the method ascribed, on June 23, 2014, as follows:

By U.S. Mail, First Class, postage fully prepaid, to  
Susan E. Buxton  
Jill S. Holinka  
950 West Bannock St., Suite 520  
Boise, Idaho 83702

The Honorable Susan E. Wiebe, District Judge  
1130 3<sup>rd</sup> Avenue North  
Payette, Idaho 83661

By Hand Delivery to

Court Reporter  
District Court of Gem County  
c/o Clerk of the Court  
415 East Main Street  
Emmett, Idaho 83617

  
William D. Rekow

WILLIAM D. REKOW, Appellant/Plaintiff  
Pro Se  
1493 So. Johns Ave.  
Emmett, ID 83617  
(208) 740-7381  
heviarti@gmail.com

FILED  
A.M. 3:45 P.M.

JUL 29 2014

SHELLEY TILTON, CLERK  
DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

WILLIAM D. REKOW,	)	Case No.: No. CV 2012-713
	)	
Appellant-Plaintiff,	)	FIRST AMENDED NOTICE OF APPEAL
	)	
vs.	)	
	)	
RONNIE L. WEEKES and DOES I	)	
	)	
through V, Inclusive,	)	
	)	
<u>Respondents-Defendants.</u>	)	

TO: THE ABOVE-NAMED RESPONDENT/DEFENDANT, RONNIE L. WEEKES, AND  
HIS ATTORNEYS, SUSAN E. BUXTON AND JILL S. HOLINKA, 940 WEST  
BANNOCK ST., SUITE 520, BOISE, ID 83702, AND TO THE CLERK OF  
THE ABOVE-ENTITLED COURT

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant/plaintiff/tenant WILLIAM D. REKOW  
(hereinafter referred to as "REKOW") appeals against the above-  
named respondent/defendant/landlord RONNIE L. WEEKES  
(hereinafter referred to as "WEEKES") to the Idaho Supreme Court  
from the Order Granting In Part And Denying In Part Defendant's

Motion To Dismiss/Motion For Summary Judgment entered in the above-entitled action on the 18<sup>th</sup> day of March, 2014, Honorable Judge Susan E. Wiebe presiding.

2. That the party has right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1. above are appealable orders under and pursuant to Rule 11 subsection(a)subparagraphs(1)and(3) I.A.R.

3. REKOW appeals the District Court's denial of damages under Idaho Code Section 6-320 by ruling that REKOW had no damages until REKOW achieved standing to file on September 14, 2012 by delivering his 'List of Defects' letter to WEEKES' former counsel.

Furthermore, REKOW appeals the Court's denial of his entitlement to damages in lieu of specific performance by dismissing REKOW's claim for specific performance. The Court having called REKOW's claim "moot" in light of WEEKES' destruction of the rental house located on the property commonly known as 9449 Brill Road, Gem County, Letha, Idaho (hereinafter referred to as the "Rental").

Thirdly, REKOW appeals the Court's dismissal of his claim for breach of an implied warranty of habitability based upon the fact that WEEKES failed to rectify the lack of water to the Rental. WEEKES responded to REKOW's June 2008 verbal request

for repair of the water delivery system in November 2008, and again in January 2009, both of which failed to remedy the lack of reliable water service to the Rental. REKOW would argue that regardless of the manner in which WEEKES received notice of the request for repair to the water system, WEEKES began repairs but never completed same, all to REKOW's damage and loss of value to the Rental. (Lack of a reliable water delivery system being just one of the defects which caused the Hon. Tyler Smith to name the Rental as "uninhabitable" during the January 13, 2013 hearing on unlawful detainer [CV 2013-3], said action being judicially noticed by the Court herein, on WEEKES' motion therefore.

Finally, REKOW appeals the Court's dismissal of the conversion allegation, as the items of personal property of REKOW, held by WEEKES were not returned to REKOW until after the March 18<sup>th</sup>, 2014 hearing.

4. No order has been entered sealing all or any portion of the record.

5.(a) A reporter's transcript has been requested.

(b) The appellant requests the preparation of the following portions of the reporter's transcript:

(i) The March 18<sup>th</sup>, 2014 hearing on the Motion To Dismiss/Motion For Summary Judgment brought by WEEKES

6. The appellant requests the documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R. be supplied electronically; specifically the clerk's record including the complaint, all exhibits including the approximately 200 defects photographs.

7. I certify:

(a) that a copy of this notice of appeal has been served on each reporter of whom a transcript has been requested as named below at the address set out below:

Letha Waddle, Court Reporters' Office, 1115 Albany St.,  
Caldwell, Idaho 83605

(b) that the clerk of the district court has been paid the estimated fee for preparation of the reporter's transcript;

(c) that the estimated fee for preparation of the clerk's record has been paid;

(d) that the appellate filing fee has been paid; and,

(e) that service has been made upon all parties required to be served pursuant to Rule 20 (and the attorney general of Idaho pursuant to Section 67-1401(1), Idaho Code).

DATED THIS 29th day of July , 2014.

State of Idaho )  
County of ) ss.

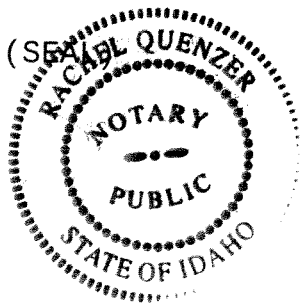
WILLIAM D. REKOW, being sworn, deposes and says:

That the party is the appellant in the above-entitled appeal, and that all statements in this notice of appeal are true and correct to the best of his knowledge and belief.



WILLIAM D. REKOW, Appellant Pro Se

Subscribed and Sworn to before me this 29 day of July " 2014.



Title

Residence Emmett, id

11/17/2016

## 52



**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of July, 2014, I caused to be served a true and correct copy of the foregoing **FINAL JUDGMENT** upon the following individuals and in the corresponding manner:

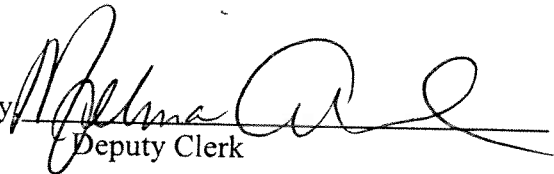
William D. Rekow  
c/o Mauri McNaughton  
1600 E. Main St., #5  
Emmett, Idaho 83617

☒ via U.S. Mail  
☐ via Facsimile  
☐ via Email: *heviarti@gmail.com*

Jill S. Holinka  
Moore Smith Buxton & Turcke, Chtd.  
950 W. Bannock St., Suite, 520  
Boise, ID 83702

☒ via U.S. Mail  
☐ via Facsimile (208) 331-1202  
☐ via Email: *jsh@msbtlaw.com*

**Shelly Tilton**  
CLERK OF THE COURT

By   
Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

WILLIAM REKOW,  
Plaintiff-Respondent,

vs.

RONALD WEEKES,  
Defendant-Respondent.

SUPREME COURT NO. 42265

CERTIFICATE OF EXHIBITS

I, SHELLY TILTON, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Gem, do hereby certify:

That there were no exhibits which were offered or admitted into evidence during the course of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Emmett, Idaho this 20<sup>th</sup> day of August, 20 14.

SHELLY TILTON, Clerk of the District

By

  
Deputy Clerk

CERTIFICATE OF EXHIBITS

## 57

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

WILLIAM REKOW,  
Plaintiff/Appellant.

vs.

RONALD WEEKES,  
Defendant/Respondent.

SUPREME COURT NO. 42265

CERTIFICATE OF SERVICE

I, Shelly Tilton, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Gem, do hereby certify that I personally mailed, by United States Mail, one copy of the Clerk's Record and any Reporter's Transcript to each of the parties or their Attorney of Record as follows:

William Rekow  
C/O Mauri McNaughton  
1600 E. Main St. #5  
Emmett, Idaho 83617

Jill Holinka  
MOORE SMITH BUXTON & TURCKE, CHTD  
950 W. Bannock St. Ste 520  
Boise, Idaho 83702

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 28 day of Aug, 2014.

SHELLY TILTON  
Clerk of the District Court

By   
Deputy Clerk

CERTIFICATE OF SERVICE